

EXHIBIT 2

**IN THE CIRCUIT COURT OF THE 13TH JUDICIAL CIRCUIT
GRUNDY COUNTY-MORRIS, ILLINOIS**

BANK OF AMERICA, N.A., SUCCESSOR
BY MERGER TO BAC HOME LOANS
SERVICING, LP F/K/A COUNTRYWIDE
HOME LOANS SERVICING LP,

PLAINTIFF

vs.

EDWIN CARDONA; DAWN M.
CARDONA; AMBERLEIGH ESTATES
HOMEOWNERS ASSOCIATION;
UNKNOWN OWNERS AND NON-
RECORD CLAIMANTS,

DEFENDANTS

NO. 12 CH 191

Address: 27000 W. Cypress Road
Channahon, Illinois 60410

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES, Plaintiff, BANK OF AMERICA, N.A., SUCCESSORY BY
MERGER TO BAC HOMELOANS SERVICING, LP F/K/A COUNTRYWIDE HOME
LOANS SERVICING LP, by and through its attorneys, JOHNSON, BLUMBERG &
ASSOCIATES, and in support of Plaintiff's Response to Defendants' Motion to Dismiss,
states as follows:

1. Plaintiff filed its Complaint to Foreclose on July 6, 2012, in order to foreclose on the subject mortgage, executed by Defendants, Edwin and Dawn M. Cardona, on April 24, 2009 and attached to the subject property by a note promising to pay the principal sum of \$249,314.00 also executed on April 24, 2009.
2. Defendants, Edwin and Dawn M. Cardona, were personally served, with a copy of Plaintiff's Complaint to Foreclose and Summons at the subject property address on July 13, 2012.
3. Defendants, Edwin and Dawn M. Cardona, filed their pro se Motion to Dismiss on August 7, 2012.

4. "Illinois is a fact-pleading jurisdiction. In order to set forth a good and sufficient claim or defense, a pleading must allege ultimate facts sufficient to satisfy each element of the cause of action..." *Richco Plastic Co. v. IMS Co.*, 288 Ill.App.3d 782 (1st Dist. 1997).
5. Under Illinois law, the mortgagee need not prove non-payment by the mortgagor in order to establish a prima facie case for foreclosure. *Pan-American Life Ins. Co. v. Invex Holdings, N.V.* 96 C 4565, 1997 WL 72078 (N.D. Ill. Feb. 14, 1997), citing *Farm Credit Bank of St. Louis v. Biethman*, 262 Ill. App. 3d 614, 199 Ill.Dec. 958, 634 N.E.2d 1312, 1318 (5th Dist. 1994). Instead, the burden is on the defendant to prove payment *Id.*
6. Defendants allege in the Motion to Dismiss that two payments were tendered to the Plaintiff on May 16 and May 17, 2012 in the amounts of \$274,812.87 and \$2,572.12. However, Plaintiff reversed these payments on the subject loan because the Standard Bank account Defendants' checks were from was closed prior to the attempted payments (see attached cancelled checks as Exhibit A and payment history attached as Exhibit B).
7. Defendants allege that the subject loan was paid in full. However, Defendants tendered fraudulent checks to the Plaintiff, by knowingly drawing checks on an account they knew or should have known was closed. Moreover, Defendants have failed to provide evidence showing that the payments tendered were accepted by Plaintiff and debited from the account they held with Standard Bank.

8. Defendants have failed to tender the required monthly installments of principal, interest, taxes, and/or insurance, pursuant to the terms of the subject note and mortgage, for August 2010 through the present (see Exhibit B).
9. Defendants have failed to present the necessary facts sufficient to set forth a defense in the instant foreclosure action.
10. Moreover, Defendants have failed to provide a well-pled motion with plainly set forth facts to support their allegations and thus failed to comply with Illinois law. Defendants' motion is without merit and, based on the facts presented, the Motion to Dismiss must be denied.

WHEREFORE, Plaintiff, BANK OF AMERICA, N.A., SUCCESSORY BY MERGER TO BAC HOMELOANS SERVICING, LP F/K/A COUNTRYWIDE HOME LOANS SERVICING LP, respectfully requests this court to deny Defendants' Motion to Dismiss.

Respectfully Submitted,



Karla M. Stepter
One of Plaintiff's Attorneys

JOHNSON, BLUMBERG & ASSOCIATES, LLC
Attorneys for Plaintiff
230 W. Monroe Street, Suite 1125
Chicago, IL 60606
(312) 541-9710

Bank of America



Home Loans

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Account Number: [REDACTED]
 Statement Period: 04/2009 - 06/2012
 Date Prepared: 06/22/2012

Property Address:
 27000 W CYPRESS ROAD
 CHANNAHON, IL 60410

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
	Beginning Balance			248,625.80		.00				.00
08/26/2009	INT ESCROW SETUP	5,023.04	07/2009	.00	.00	5,023.04	.00	.00	.00	.00
				248,625.80		5,023.04			.00	.00
08/31/2009	REGULAR PAYMENT	2,011.48	08/2009	345.93	880.55	785.00	.00	.00	.00	.00
				248,279.87		5,808.04			.00	.00
09/01/2009	COUNTY TAX PMT	-3,802.36	08/2009	.00	.00	-3,802.36	.00	.00	.00	.00
				248,279.87		2,005.68			.00	.00
09/01/2009	COUNTY TAX PMT	-3,802.36	08/2009	.00	.00	-3,802.36	.00	.00	.00	.00
				248,279.87		-1,796.68			.00	.00
09/04/2009	FHA MIP PMT	-203.12	08/2009	.00	.00	-203.12	.00	.00	.00	.00
				248,279.87		-1,999.80			.00	.00
09/16/2009	REGULAR PAYMENT	2,011.48	09/2009	347.16	879.32	785.00	.00	.00	.00	.00
				247,932.71		-1,214.80			.00	.00
10/06/2009	FHA MIP PMT	-105.62	09/2009	.00	.00	-105.62	.00	.00	.00	.00
				247,932.71		-1,320.42			.00	.00
10/14/2009	REGULAR PAYMENT	2,011.48	10/2009	348.38	878.10	785.00	.00	.00	.00	.00
				247,584.33		-535.42			.00	.00
11/05/2009	FHA MIP PMT	-101.56	10/2009	.00	.00	-101.56	.00	.00	.00	.00
				247,584.33		-636.98			.00	.00
11/13/2009	REGULAR PAYMENT	2,011.48	11/2009	349.62	876.86	785.00	.00	.00	.00	.00
				247,234.71		148.02			.00	.00
12/02/2009	HAZARD INS PMT	-578.39	11/2009	.00	.00	-578.39	.00	.00	.00	.00
				247,234.71		-430.37			.00	.00
12/04/2009	FHA MIP PMT	-101.56	11/2009	.00	.00	-101.56	.00	.00	.00	.00
				247,234.71		-531.93			.00	.00
12/15/2009	REGULAR PAYMENT	1,923.87	12/2009	350.86	875.62	697.39	.00	.00	.00	.00
				246,883.85		165.46			.00	.00
12/15/2009	MISC. POSTING	.13	12/2009	.13	.00	.00	.00	.00	.00	.00
				246,883.72		165.46			.00	.00
01/07/2010	FHA MIP PMT	-101.56	12/2009	.00	.00	-101.56	.00	.00	.00	.00
				246,883.72		63.90			.00	.00

EXHIBIT

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Bank of America



Home Loans

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Account Number:

Statement Period: 04/2009 - 06/2012

Date Prepared: 06/22/2012

Property Address:
27000 W CYPRESS ROAD
CHannahon, IL 60410

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
01/14/2010	REGULAR PAYMENT	1,923.87	01/2010	352.10 246,531.62	874.38	697.39 761.29	.00	.00	.00	.00
02/03/2010	REGULAR PAYMENT	1,923.87	02/2010	353.35 246,178.27	873.13	697.39 1,458.68	.00	.00	.00	.00
02/04/2010	FHA MIP PMT	-101.56	02/2010	.00 246,178.27	.00	-101.56 1,357.12	.00	.00	.00	.00
03/04/2010	FHA MIP PMT	-101.56	02/2010	.00 246,178.27	.00	-101.56 1,255.56	.00	.00	.00	.00
03/16/2010	REGULAR PAYMENT	1,923.87	03/2010	354.60 245,823.67	871.88	697.39 1,952.95	.00	.00	.00	.00
04/06/2010	FHA MIP PMT	-101.56	03/2010	.00 245,823.67	.00	-101.56 1,851.39	.00	.00	.00	.00
04/14/2010	REGULAR PAYMENT	1,923.87	04/2010	355.85 245,467.82	870.63	697.39 2,548.78	.00	.00	.00	.00
05/06/2010	FHA MIP PMT	-101.56	04/2010	.00 245,467.82	.00	-101.56 2,447.22	.00	.00	.00	.00
05/13/2010	REGULAR PAYMENT	1,923.87	05/2010	357.11 245,110.71	869.37	697.39 3,144.61	.00	.00	.00	.00
06/04/2010	FHA MIP PMT	-99.80	05/2010	.00 245,110.71	.00	-99.80 3,044.81	.00	.00	.00	.00
06/16/2010	REGULAR PAYMENT	1,923.87	06/2010	358.38 244,752.33	868.10	697.39 3,742.20	.00	.00	.00	.00
06/21/2010	COUNTY TAX PMT	-2,850.45	06/2010	.00 244,752.33	.00	-2,850.45 891.75	.00	.00	.00	.00
07/07/2010	FHA MIP PMT	-89.80	06/2010	.00 244,752.33	.00	-89.80 791.95	.00	.00	.00	.00
07/08/2010	REGULAR PAYMENT	1,923.87	07/2010	359.65 244,392.68	866.88	697.39 1,489.34	.00	.00	.00	.00

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Bank of America



Home Loans

 Property Address:
 27000 W CYPRESS ROAD
 CHANNAHON, IL 60410

 Account Number: [REDACTED]
 Statement Period: 04/2009 - 06/2012
 Date Prepared: 06/22/2012

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
08/05/2010	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
08/24/2010	COUNTY TAX PMT	-2,850.45	07/2010	244,392.68	.00	-2,850.45	.00	.00	.00	.00
09/07/2010	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
10/06/2010	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
10/20/2010	HAZARD INS PMT	-743.46	07/2010	244,392.68	.00	-743.46	.00	.00	.00	.00
11/04/2010	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
12/06/2010	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
01/06/2011	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
02/04/2011	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
03/04/2011	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
04/06/2011	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
05/05/2011	FHA MIP PMT	-99.80	07/2010	244,392.68	.00	-99.80	.00	.00	.00	.00
06/06/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
06/09/2011	COUNTY TAX PMT	-2,660.38	07/2010	244,392.68	.00	-2,660.38	.00	.00	.00	.00



Account Number: [REDACTED]

Statement Period: 04/2009 - 06/2012

Date Prepared: 06/22/2012

Property Address:
27000 W CYPRESS ROAD
CHANNAHAN, IL 60410

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/07/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
08/04/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
08/12/2011	COUNTY TAX PMT	-2,660.38	07/2010	244,392.68	.00	-2,660.38	.00	.00	.00	.00
09/07/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
10/06/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
10/18/2011	HAZARD INS PMT	-888.73	07/2010	244,392.68	.00	-888.73	.00	.00	.00	.00
11/04/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
12/06/2011	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
01/06/2012	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
02/06/2012	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
03/06/2012	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
04/05/2012	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
05/04/2012	FHA MIP PMT	-97.97	07/2010	244,392.68	.00	-97.97	.00	.00	.00	.00
05/15/2012	COUNTY TAX PMT	-2,513.95	07/2010	244,392.68	.00	-2,513.95	.00	.00	.00	.00



Account Number: [REDACTED]

Statement Period: 04/2009 - 06/2012

Date Prepared: 06/22/2012

Property Address:
27000 W CYPRESS ROAD
CHANNAHON, IL 60410

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Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
05/17/2012	MISC. POSTING	274,812.87	07/2010	244,392.68	.00	.00	.00	.00	.00	274,812.87
05/17/2012	REGULAR PAYMENT	2,572.12	08/2010	360.92	865.56	697.39	.00	.00	.00	274,812.87
05/18/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	-12,304.26	.00	.00	76.95	571.30
05/23/2012	MISC. POSTING	-309.31	08/2010	244,031.76	.00	275,384.17	.00	.00	.00	275,384.17
05/24/2012	MISC. POSTING	309.31	08/2010	244,031.76	.00	263,079.91	.00	.00	.00	-275,384.17
05/24/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	-309.31	.00	.00	.00	.00
05/24/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	262,770.60	.00	.00	.00	.00
05/24/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	309.31	.00	.00	.00	.00
05/24/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	263,079.91	.00	.00	.00	.00
05/24/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	-275,384.17	.00	.00	.00	275,384.17
05/24/2012	MISC. POSTING	.00	08/2010	244,031.76	.00	-12,304.26	.00	.00	.00	275,384.17
05/24/2012	PAYMENT REVERSAL	-2,572.12	07/2010	-360.92	-865.56	-697.39	.00	.00	-76.95	-571.30
05/24/2012	MISC. POSTING	-274,812.87	07/2010	244,392.68	.00	-13,001.65	.00	.00	.00	274,812.87
06/04/2012	MISC. POSTING	2,262.81	07/2010	244,392.68	.00	.00	.00	.00	.00	-274,812.87
06/04/2012	MISC. POSTING	-2,262.81	07/2010	.00	.00	-13,001.65	.00	.00	.00	.00
06/04/2012	MISC. POSTING	-2,262.81	07/2010	244,392.68	.00	.00	.00	.00	.00	2,262.81
06/06/2012	FHA MIP PMT	-96.05	07/2010	.00	.00	-13,001.65	.00	.00	.00	2,262.81
				244,392.68	.00	-96.05	.00	.00	.00	.00
						-13,097.70	.00	.00	.00	.00

REDACTED
10/22/2012
REDACTED

CLOSED ACCOUNT

DAWN M. CARDONA
2700 W. CITRUS RD.
CHANNAY, IL 61810
REDACTED

1097

MAY 17 2012

BANK OF AMERICA NA

138572.12

TWO THOUSAND FIVE HUNDRED SEVENTY TWO DOLLARS

STANDARD BANK

FOR DEPOSIT ONLY

REDACTED

1097

REDACTED

REDACTED

REDACTED

FOR DISCHARGE OF DEBT
FOR DEPOSIT ONLY

DO NOT ENDORSE OR WRITE BELOW THIS LINE

Hello,

The 2 payments posted but were reversed are below. They both were returned unpaid due to closed account.
Thanks.

http://imageview.bankofamerica.com/IV3/userdocs/Use/4/k/nbkt4et/ REDACTED nbkt4et.pdf - Windows ...

Amount: 2274,812.87 Sequence Number: REDACTED
Account: REDACTED Capture Date: 05/21/2012
Bank Number: REDACTED Check Number: 1096

DAWN M CARDONA 0012 7D-44 1096
27000 W CYPRESS RD. ACCT. REDACTED
CHannah, IL 60410 DATE MAY 16, 2012

PAY TO BANK OF AMERICA, N.A. \$274,812.87
THE ORDER OF TWO HUNDRED SEVENTY-FOUR THOUSAND EIGHT HUNDRED TWELVE AND NO/100 DOLLARS

STANDARD BANK EFT ONLY
MEMO FOR DISCHARGE OF DEBT
REDACTED 1096

FOR DISCHARGE OF DEBT
EFT ONLY
DO NOT WRITE STAMP OR SIGN BELOW THIS LINE
RECEIVED FOR DEPOSIT
5/21/2012
5/21/2012

Electronic Endorsement:
Date Sequence Bank # Endra Type TRF NRC Bank Name
05/21/2012 REDACTED Undetermined N FEDERAL RES BANK OF
05/21/2012 REDACTED Undetermined N BANK OF AMERICA, NA

Done Unknown Zone